

MEMORANDUM OF LAW

DATE: January 8, 1987

TO: Councilwoman Judy McCarty

FROM: City Attorney

SUBJECT: Brown Act and Ex Parte Contact Questions (Copy attached)

In response to your Brown Act questions on this subject:

1. a) You may talk to each Councilmember individually to learn their views on an issue or provide them with your views.
b) You may attempt to persuade any Councilmember individually. You may not negotiate or attempt to gain a commitment.
c) You may talk to them individually yourself or through your staff.
d) You may only talk to them individually and not in any group meeting.
2. You may tell the newspapers where you stand on an issue. It is immaterial whether others read it.
3. a) Regarding constituents, if your constituent is deemed to be your authorized agent for purposes of discussing issues, he or she could bind you and would be subject to the same constraints as you are.
b) The Brown Act covers certain "recognized" community planning groups. They have been duly advised. (See attached Council Report No. RC-86-22.)
4. The City staff does not work directly for you and cannot bind you.
5. Regarding City Staff and The Brown Act. If your staff is duly authorized to speak for you, they are bound just as you are to meet the Brown Act requirements.

In response to your Ex Parte Contact questions:

1. Constituents can contact their Councilmembers, but in order to provide for fundamental fairness we believe you should not discuss the merits of any issue which is the subject of a Noticed Public Hearing with proponents or opponents. In other words, all evidence concerning the issue should be taken in the Council hearing.

JOHN W. WITT, City Attorney

By

C. M. Fitzpatrick
Assistant City Attorney

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Attachments
ML-87-2